

CLOSED

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

LOTTOTRON, INC.,

Plaintiff,

v.

TELEPUBLICIDAD, S.A., et al.

Defendants.

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Civil Action No. 10-337 (SRC)

ORDER

CHESLER, U.S.D.J.

This matter comes before the Court on Plaintiff's motion for default judgment as to Defendants Virtual Casino Group, Jeux Virtuels, S.A., Dulce Vida De Las Americas, S.A., Weaverville Inc., S.A., Azul Electrico, S.A., Ala Data Management, S.A., and Telepublicidad, S.A. For the reasons stated below, the motion will be granted.

This Court denied Plaintiff's first motion for entry of default judgment against these Defendants because the allegations of patent infringement in the Complaint were pled in a purely conclusory manner. The Second Amended Complaint has remedied these defects, and the motion for entry of default judgment on the single count of patent infringement in the Second Amended Complaint will be granted.

Plaintiff asks for an award of patent infringement damages pursuant to 35 U.S.C. § 284, and this matter will be referred to Magistrate Judge Shipp for a proof hearing. Plaintiff also asks for an award of attorneys' fees. The Second Amended Complaint provides no legal justification for an award of attorneys' fees. Plaintiff's brief in support of this motion merely cites two

sections of the Lanham Act, 15 U.S.C. §§ 1116-1117. Plaintiff has not shown any basis for an award of fees under the Lanham Act; the Second Amended Complaint makes no mention of trademark infringement. The relevant statutory provision in patent law is 35 U.S.C. § 285, which authorizes an award of attorneys' fees in "exceptional cases." Plaintiff has not argued, no less persuaded, that this is such an exceptional case. The application for attorneys' fees will be denied.

For these reasons,

IT IS on this 8th day of August, 2011,

ORDERED that Plaintiff's motion for entry of default judgment (Docket Entry No. 47) is **GRANTED**, and Judgment is hereby entered in favor of Plaintiff against every Defendant; and it is further

ORDERED that this matter is referred to Magistrate Judge Shipp for a proof hearing on the issue of damages.

s/ Stanley R. Chesler
Stanley R. Chesler
United States District judge